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09/224,409	12/31/1998	RICHARD C. FENWICK JR.	ONCO-002	3722

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EXAMINER

VU, NGOC K

ART UNIT

PAPER NUMBER

2611

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/224,409

Applicant(s)

FENWICK JR. ET AL.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11,12,14,15,18,26,27,29,30 and 36-45 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

- 6) ☒ Claim(s) 11,12,14,15,18,26,27,29,30 and 36-45 is/are rejected.

- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

***Response to Arguments***

1. Applicant's arguments with respect to claims 11, 12, 14, 15, 18, 26, 27, 29, 30 and 36-45 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11, 12, 14, 15, 26, 27, 29, 30, 36-39 and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoel et al (US 5,905,942) in view of Wolfe et al (US 5,931,901).

Regarding claim 3, Stoel discloses a method for presenting program material from a plurality of program sources (including VOD service, interactive games service, and other interactive video service) to users using a host computing device (12) and allocating tasks among a plurality of audiovisual serving devices (for example, VCPs 142A-142D), the method comprising: responding to a user request to order program material by selecting one of a plurality of ACDs to generate a menu listing available program material (if the system is not busy when the subscriber presses the MENU button on subscriber remote control 46, the terminal 42 receives from UHC 70 the number of an available interactive channel providing information about interactive services that are available for selection); receiving a program selection from the user over a Room Communication Subsystem (RCS) (selection of services are achieved by interaction between the subscriber and headend 12 through interactive menu displayed on the subscriber's television 44 wherein menu is a list of available services);

presenting the user with the menu over a RCS (headend 12 controls which subscribers will have access to interactive menus, VOD, games, interactive services by controlling the interdiction field units 28); responding to the selection of program material by selecting one of plurality of audiovisual serving devices to present the program material; and presenting the program material to the user over the RCS (UHC 70 selects the particular VCP to be played, based upon keystrokes received from the subscriber during an interactive menu session, and transmits the selected movie to the subscriber via unit 28) (see figures 1-3B and col. 3, lines 36-40; col. 8, lines 51-54; col. 2, lines 18-23; col. 9, lines 33-39 and 59-63; col. 11, line 17 to col. 12, line 6).

Stoel discloses providing a menu for selecting a VOD program or interactive service, as interpreted above, but Stoel fails to disclose creating a set of user data listing stated user preferences. However, Wolfe discloses creating and storing the user profile for each subscriber including age, education, income, musical selections previously or simultaneously made by the subscriber, purchasing habits, etc (see col. 4, lines 62-66). Therefore, it would have been obvious to one of ordinary skill in the art to modify Stoel by creating and storing the user profile for each subscriber including personal information, music selections previously or purchasing habits as taught by Wolfe in order to effectively provide the appropriated program or suitable material from a provider to a particular user.

Regarding claims 12 and 36, Stoel as modified by Wolfe further includes that based on the each user, the provider presents to each individual a menu of music selection which best fits the individual's references and music taste (see Wolfe; col. 5, lines 1-5).

Regarding claim 37, Stoel discloses the menu generated is customized upon the request of the user (subscriber pushes the appropriate button, e.g., menu, on the remote control. The pressing of the menu button requests that an interactive port be assigned by headend to subscriber unit) (see col. 4, lines 62-67).

Regarding claim 14, Stoel discloses a method for presenting program material from a plurality of program sources (including VOD service, interactive games service, and other interactive video service) to users using a host computing device (12) and allocating tasks among a plurality of audiovisual serving devices (for example, VCPs 142A-142D), the method comprising: responding to a user request to order program material by selecting one of a plurality of ACDs to generate a menu listing available program material (if the system is not busy when the subscriber presses the MENU button on subscriber remote control 46, the terminal 42 receives from UHC 70 the number of an available interactive channel providing information about interactive services that are available for selection); presenting the user with a broadcast channel (the RF television channel passes through subscriber terminal 42 to the television 44 via cable 44); receiving a program selection from the user over a Room Communication Subsystem (RCS) (selection of services are achieved by interaction between the subscriber and headend 12 through interactive menu displayed on the subscriber's television 44 wherein menu is a list of available services); presenting the user with the menu over a RCS (headend 12 controls which subscribers will have access to interactive menus, VOD, games, interactive services by controlling the interdiction field units 28); responding to the selection of program material by selecting one of plurality of audiovisual serving devices to present the program material; and presenting the program material to the user over the RCS (UHC 70 selects the particular VCP to be played, based upon keystrokes received from the subscriber during an interactive menu session, and transmits the selected movie to the subscriber via unit 28) (see figures 1-3B and col. 3, lines 19-28 and 36-40; col. 8, lines 51-54; col. 2, lines 18-23; col. 9, lines 33-39 and 59-63; col. 11, line 17 to col. 12, line 6 ).

Stoel discloses providing a menu for selecting a VOD program or interactive service, as interpreted above, but Stoel fails to disclose creating a set of user data listing stated user

preferences. However, Wolfe discloses creating and storing the user profile for each subscriber including age, education, income, musical selections previously or simultaneously made by the subscriber, purchasing habits, etc (see col. 4, lines 62-66). Therefore, it would have been obvious to one of ordinary skill in the art to modify Stoel by creating and storing the user profile for each subscriber including personal information, music selections previously or purchasing habits as taught by Wolfe in order to effectively provide the appropriated program or suitable material from a provider to a particular user.

Regarding claim 15, Stoel discloses controller 74 defines the interdiction of channels to individual subscribers based upon the basic services ordered by the subscriber (see col. 8, lines 39-45). Stoel does not disclose the broadcast channel is modified to reflect the set of user preferences. Official Notice is taken that providing the broadcast channel based on the user preferences or viewing habits is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify Stoel by including the broadcast channel based on the user preferences or viewing habits in order to provide the suitable programming or material to the targeted user.

Regarding claim 38, Stoel as modified by Wolfe further includes that based on the each user, the provider presents to each individual a menu of music selection which best fits the individual's references and music taste (see Wolfe; col. 5, lines 1-5).

Regarding claim 39, Stoel discloses the menu generated is customized upon the request of the user (subscriber pushes the appropriate button, e.g., menu, on the remote control. The pressing of the menu button requests that an interactive port be assigned by headend to subscriber unit) (see col. 4, lines 62-67).

Regarding claim 26, Stoel discloses an apparatus (see figures 1-3B) for presenting program material from a plurality of program sources (including VOD service, interactive games

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service, and other interactive video service) to users using a host computing device (12) and plurality of audiovisual serving device (VCPs), comprising: a programming subsystem (80), the programming subsystem including a plurality of audiovisual serving devices (VCPs 142A-142D); a Room Communication Subsystem (RCS) (28); a Site Management Subsystem (SMS) (70); and a plurality of Assignable Computing Device audiovisual serving devices (76, 78 and 80); wherein the audiovisual serving service devices communicate with the user terminals over the Room Communication Subsystem (UHC 70 selects the particular VCP to be played, based upon keystrokes received from the subscriber during an interactive menu session, and transmits the selected movie to the subscriber via unit 28), the Site Management Subsystem can assign at least one Assignable Computing Device to communicate with a user terminal in response to an initial communication from a user terminal (if the system is not busy when the subscriber presses the MENU button on subscriber remote control 46, the terminal 42 receives from UHC 70 the number of an available interactive channel providing information about interactive services that are available for selection) (see figures 1-3B and col. 3, lines 19-28 and 36-40; col. 8, lines 51-54; col. 2, lines 18-23; col. 9, lines 33-39 and 59-63; col. 11, line 17 to col. 12, line 6 ).

Stoel further discloses providing the menu to subscriber listing of available material (the system must include the tasks of keep track and update of the availability of the material in order to present the available services) (see col. 3, lines 36-40; col. 4-5, lines 62-1). Stoel fails to disclose creating a set of user data listing stated user preferences. However, Wolfe discloses storing the user profile for each subscriber including age, education, income, musical selections previously or simultaneously made by the subscriber, purchasing habits, etc (see col. 4, lines 62-66). Therefore, it would have been obvious to one of ordinary skill in the art to modify Stoel by creating and storing the user profile for each subscriber including personal information, music

selections previously or purchasing habits as taught by Wolfe in order to effectively provides the appropriated program or suitable material from a provider to a particular user.

Regarding claim 27, Stoel discloses that a subscriber can choose from movies, video games, interactive services or pay-per-view events that are menued. If the movie ordered by the subscriber is not already playing, headend plays the movie on the channel which has already been assigned to that subscriber during that interactive session (see col. 5, lines 18-26; col. 5-6, lines 65-1). Stoel as modified by Wolfe further includes that based on the each user, the provider presents to each individual a menu of music selection which best fits the individual's references and music taste (see Wolfe; col. 5, lines 1-5).

Regarding claim 42, Stoel as modified by Wolfe further includes that based on the each user, the provider presents to each individual a menu of music selection which best fits the individual's references and music taste (see Wolfe; col. 5, lines 1-5).

Regarding claim 43, Stoel discloses the menu generated is customized upon the request of the user (subscriber pushes the appropriate button, e.g., menu, on the remote control. The pressing of the menu button requests that an interactive port be assigned by headend to subscriber unit) (see col. 4, lines 62-67).

Regarding claims 29, Stoel discloses an apparatus (see figures 1-3B) for presenting program material from a plurality of program sources (including VOD service, interactive games service, and other interactive video service) to users using a host computing device (12) and plurality of audiovisual serving device (VCPs), comprising: a programming subsystem (80), the programming subsystem including a plurality of audiovisual serving devices (VCPs 142A-142D); a Room Communication Subsystem (RCS) (28); a Site Management Subsystem (SMS) (70); a plurality of Assignable Computing Device audiovisual serving devices (76, 78 and 80); and a broadcast channel (RF channel); wherein the audiovisual serving service devices communicate

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with the user terminals over the Room Communication Subsystem (UHC 70 selects the particular VCP to be played, based upon keystrokes received from the subscriber during an interactive menu session, and transmits the selected movie to the subscriber via unit 28), the Site Management Subsystem can assign at least one Assignable Computing Device to communicate with a user terminal in response to an initial communication from a user terminal (if the system is not busy when the subscriber presses the MENU button on subscriber remote control 46, the terminal 42 receives from UHC 70 the number of an available interactive channel providing information about interactive services that are available for selection) (see figures 1-3B and col. 3, lines 19-28 and 36-40; col. 8, lines 51-54; col. 2, lines 18-23; col. 9, lines 33-39 and 59-63; col. 11, line 17 to col. 12, line 6 ).

Stoel further discloses providing the menu to subscriber listing of available material (the system must include the tasks of keep track and update of the availability of the material in order to present the available services) (see col. 3, lines 36-40; col. 4-5, lines 62-1). Stoel fails to disclose creating a set of user data listing stated user preferences. However, Wolfe discloses storing the user profile for each subscriber including age, education, income, musical selections previously or simultaneously made by the subscriber, purchasing habits, etc (see col. 4, lines 62-66). Therefore, it would have been obvious to one of ordinary skill in the art to modify Stoel by creating and storing the user profile for each subscriber including personal information, music selections previously or purchasing habits as taught by Wolfe in order to effectively provides the appropriated program or suitable material from a provider to a particular user.

Regarding claim 30, Stoel discloses controller 74 defines the interdiction of channels to individual subscribers based upon the basic services ordered by the subscriber (see col. 8, lines 39-45). Stoel does not disclose the broadcast channel is modified to reflect the set of user preferences. Official Notice is taken that providing the broadcast channel based on the user

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preferences or viewing habits is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify Stoel by including the broadcast channel based on the user preferences or viewing habits in order to provide the suitable programming or material to the targeted user.

Regarding claim 44, Stoel as modified by Wolfe further includes that based on the each user, the provider presents to each individual a menu of music selection which best fits the individual's references and music taste (see Wolfe; col. 5, lines 1-5).

Regarding claim 45, Stoel discloses the menu generated is customized upon the request of the user (subscriber pushes the appropriate button, e.g., menu, on the remote control. The pressing of the menu button requests that an interactive port be assigned by headend to subscriber unit) (see col. 4, lines 62-67).

4. Claims 18 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoel et al (US 5,905,942) in view of Ohno et al (US 5,781,734 A).

Regarding claim 18, Stoel discloses a method for presenting program material from a plurality of program sources (including VOD service, interactive games service, and other interactive video service) to users using a host computing device (12) and allocating tasks among a plurality of audiovisual serving devices (for example, VCPs 142A-142D), the method comprising: responding to a user request to order program material by selecting one of a plurality of ACDs to generate a menu listing available program material (if the system is not busy when the subscriber presses the MENU button on subscriber remote control 46, the terminal 42 receives from UHC 70 the number of an available interactive channel providing information about interactive services that are available for selection); receiving a program selection from the user over a Room Communication Subsystem (RCS) (selection of services are achieved by interaction between the subscriber and headend 12 through interactive menu

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displayed on the subscriber's television 44 wherein menu is a list of available services); presenting the user with the menu over a RCS (headend 12 controls which subscribers will have access to interactive menus, VOD, games, interactive services by controlling the interdiction field units 28); responding to the selection of program material by selecting one of plurality of audiovisual serving devices to present the program material; and presenting the program material to the user over the RCS (UHC 70 selects the particular VCP to be played, based upon keystrokes received from the subscriber during an interactive menu session, and transmits the selected movie to the subscriber via unit 28) (see figures 1-3B and col. 3, lines 36-40; col. 8, lines 51-54; col. 2, lines 18-23; col. 9, lines 33-39 and 59-63; col. 11, line 17 to col. 12, line 6).

Stoel fails to disclose polling the audiovisual service device for status. However, Ohno discloses a main processor 105 included a memory 106 stores a STATUS file indicating the operation status of the video sources. The main processor 105 performs the system management including polling and allocation of the video sources (see col. 3, lines 37-45). Therefore, it would have been obvious to one of ordinary skill in the art to modify Stoel by polling the audiovisual serving device for status in order to perform management of the video sources and to prevent the error of distributing video signals.

Regarding claim 41, Stoel discloses the menu generated is customized upon the request of the user (subscriber pushes the appropriate button, e.g., menu, on the remote control. The pressing of the menu button requests that an interactive port be assigned by headend to subscriber unit) (see col. 4, lines 62-67).

5. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stoel et al (US 5,905,942) in view of Ohno et al (US 5,781,734 A) and further in view of Wolfe et al (US 5,931,901 A).

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Regarding claim 40, Stoel discloses providing a menu for selecting a VOD program or interactive service, as interpreted above, but Stoel fails to disclose the menu generated is automatically customized based on information related to the user. However, Wolfe discloses that based on the each user, the provider presents to each individual a menu of music selection which best fits the individual's references and music taste (see Wolfe; col. 5, lines 1-5). Therefore, it would have been obvious to one of ordinary skill in the art to modify Stoel by presenting a menu automatically customized based on each individual's references as taught by Wolfe in order to allow the user easily navigating and selecting the programming that he/she is interested.


### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

NV  
July 16, 2003

  
ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
703-305-4380